III. REMARKS

Claims 1-21 were pending in the above-identified application. Applicants have amended claims 1, 2, 8, 9, 13, 15, 19, and 21. No claims have been canceled or added. Accordingly, claims 1-21 remain pending and under examination. Applicants respectfully request favorable reconsideration and allowance of the application in view of the amendments and the remarks provided herein.

35 U.S.C. 102(b) Rejections

Claims 1 and 2 were rejected under 35 USC §102(b) as being anticipated by Oon *et al.* (Oon, S.M. and D.G. Kubler. 1982 "Hydrolysis of Aldal Acetals." J. Org. Chem. Vol. 47 pp. 1166-1171) or Fenne *et al.* (GB 661184). More specifically, it was alleged that both references taught the polyacetal of formula I wherein n = 1 and both R_1 and R_2 are Et. Applicants have amended the claims to recite acetaldehyde precursors that are tetra-acetals (i.e., n = 3 in Formula I) or higher (up to n = 10), which are not taught by Oon *et al.* or Fenne *et al.* Accordingly, Applicants respectfully request that the rejection of claims 1 and 2 as being anticipated by Oon *et al.* or Fenne *et al.* be withdrawn.

35 U.S.C. 103(a) Rejections

Claim 3 has been rejected under 35 U.S.C. §103(a) as being as being unpatentable for reason of obviousness over Fenne *et al.* More specifically, it is alleged that Fenne *et al.* teaches polyacetals of the general formula EtO-[-CH(Me)-O]$_n$-Et, and that it would have been obvious to one of ordinary skill in the art to produce compounds of Formula I wherein n is 5, 6, 7, 8, 9, or 10. Applicants respectfully traverse.

A generic formula does not by itself necessarily render a compound encompassed by that formula obvious. *In re Baird*, 16 F.3d at 382, 29 U.S.P.Q.2d at 1552. Fenne *et al.* specifically teaches only the preparation of di-acetals, tri-acetals, and poly-acetals.

Poly-acetals represent a large, potentially infinite genus of acetals having essentially any length, whereas Applicants claim 3 is directed only to acetals having a length wherein n is 5-10. Furthermore, Applicants formula encompasses a variety of acetals with end groups other than just the ethyl end groups disclosed by Fenne *et al.*, thereby claiming a range of compounds that would have required undue experimentation to prepare and evaluate. Accordingly, Applicants respectfully request that the rejection of claim 3 as being obvious over Fenne *et al.* be withdrawn.

The Examiner also rejected remaining claims 4-21 under 35 USC §103(a) as being unpatentable over DeSimone (U.S. 4,280,011) in view of Fenne *et al.* In support, it is alleged that DeSimone teaches the use of acetaldehyde precursors as flavoring agents, and while it is silent as to the specific structure of acetaldehyde precursor claimed by Applicants, Fenne *et al.* teach the claimed acetaldehyde precursors wherein n=1 and R_1 and R_2 are both $-CH_2CH_3$. Applicants respectfully traverse the rejection.

Applicants have amended the claims to recite only acetaldehyde precursors that are tetra-acetals (i.e., n = 3 in Formula I) or higher (up to n = 10), which are not taught by Fenne *et al.* for the reasons provided above. In order for combined references to establish a *prima facie* case of obviousness, the references must, *inter alia*, provide all of the limitations of the claims. Accordingly, because Fenne *et al.* does not teach the claimed structures, which the Examiner has admitted are absent from DeSimone, the claims are not obvious in view of the combination of Fenne *et al.* and DeSimone, because the combined references do not provide all of the elements of the claims.

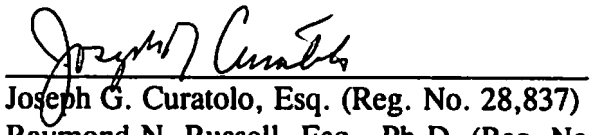
It is also alleged that it would have been obvious to try the compounds of Fenne *et al.* to provide flavoring compositions based on DeSimone's teaching of the use of aldehyde-generating acetals to provide flavoring. Applicants respectfully traverse. For compounds to be obvious to try, as is alleged to be the case here, one must be able to choose from a finite number of identified, predictable solutions, with a reasonable expectation of success. The

present application claims numerous types of acetaldehyde precursors which are not taught by either Fenne *et al.* or DeSimone, and thus do not constitute a finite number of identified solutions. Furthermore, DeSimone merely provides prior art flavor compounds having disadvantages described by Applicants in their background discussion, and there is no reason provided to expect the success demonstrated by Applicants, as evidenced by improved stability and/or release rates, based on the teachings of either DeSimone or Fenne et al.

Accordingly, for at least the reasons provided above, Applicants respectfully request that the rejection of claims 4-21 under 35 USC §103(a) in view of Fenne *et al.* or DeSimone be withdrawn.

In view of the above remarks, Applicants respectfully request withdrawal of the pending rejections under 35 U.S.C. §102(b) and §103(a), and further request the issuance of a formal notice of allowance directed to claims 1-21. Should the Examiner have any questions regarding the remarks presented in the present response, Applicants' undersigned attorney would welcome a telephone call.

Respectfully submitted,



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Oct 3, 2008
Date